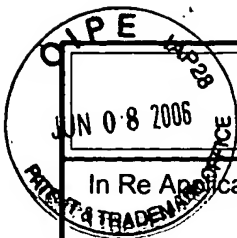


IFW



**TRANSMITTAL LETTER  
(General - Patent Pending)**

Docket No.  
18840

In Re Application Of: **Herbert Kurz, et al.**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/550,292	September 20, 2005	Unassigned	23389	Unassigned	Unassigned

Title:

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

**CORRESPONDENCE ENCLOSING TRANSLATION OF INTERNATIONAL PRELIMINARY EXAMINATION REPORT.**

in the above identified application.

- ☒ No additional fee is required.
- ☐ A check in the amount of \_\_\_\_\_ is attached.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **19-1013/SSMP** as described below.
- ☐ Charge the amount of \_\_\_\_\_
- ☒ Credit any overpayment.
- ☒ Charge any additional fee required.
- ☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Signature

Dated: **June 6, 2006**

Leopold Presser  
Registration No. 19,827

Scully, Scott, Murphy & Presser  
400 Garden City Plaza - Suite 300  
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(516) 742-4343

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <b>June 6, 2006</b> (Date)	
Signature of Person Mailing Correspondence <b>Leopold Presser</b>	
Typed or Printed Name of Person Mailing Correspondence	

cc: LP:jy



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Applicant:** Herbert Kurz, et al.

**Examiner:** Unassigned

**Serial No.:** 10/550,292

**Art Unit:** Unassigned

**Filed:** January 10, 2005

**Docket:** 18840

**For:** AXIAL PISTON MACHINE WITH OFFSET  
POSITIONING ELEMENT AND CAM DISC FOR  
SUCH AN AXIAL PISTON MACHINE

**Dated:** June 6, 2006

**Confirmation No.:** Unassigned

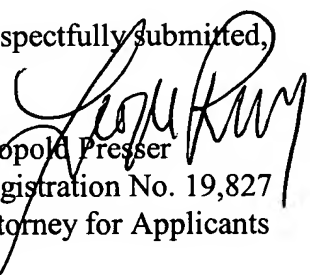
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

**CORRESPONDENCE**

Sir:

Submitted herewith is a translation of the International Preliminary Examination Report, which was submitted on September 20, 2005.

Respectfully submitted,

  
Leopold Presser  
Registration No. 19,827  
Attorney for Applicants

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, Alexandria, VA 22313-1450 on June 6 2006.

**Dated:** June 6, 2006

  
Leopold Presser

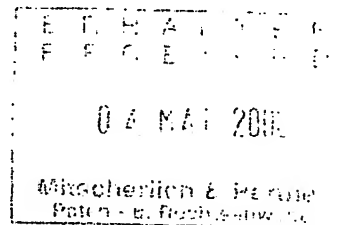
From the INTERNATIONAL BUREAU

**PCT**

NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY  
(CHAPTER I OR CHAPTER II  
OF THE PATENT COOPERATION TREATY)  
(PCT Rules 44bis.3(c) and 72.2)

To:

KÖRFER, Thomas  
Mitscherlich & Partner  
Postfach 33 06 09  
80066 München  
ALLEMAGNE



Date of mailing (day/month/year) 27 April 2006 (27.04.2006)	<b>IMPORTANT NOTIFICATION</b>
Applicant's or agent's file reference P27986/WO Kf	
International application No. PCT/EP2004/003250	International filing date (day/month/year) 26 March 2004 (26.03.2004)
Applicant <b>BRUENINGHAUS HYDROMATIK GMBH et al</b>	

## 1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

## 2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

KR

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

## 3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO  
34, chemin des Colombettes  
1211 Geneva 20, Switzerland

Authorized officer

Agnes Wittmann-Regis

**Translation**

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>P27986/WO Kf</b>	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. <b>PCT/EP2004/003250</b>	International filing date (day/month/year) <b>26.03.2004</b>	Priority date (day/month/year) <b>11.06.2003</b>	
International Patent Classification (IPC) or national classification and IPC			
Applicant <b>BRUENINGHAUS HYDROMATIK GMBH</b>			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☐ (sent to the applicant and to the International Bureau) a total of \_\_\_\_\_ sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) \_\_\_\_\_ containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003250

Box No. 1

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-14 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. 1-19 \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- sheets 1/4-4/4 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (specify): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (specify): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003250

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability:  
citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims 1-15	YES
	Claims	NO
Inventive step (IS)	Claims 1-15	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-15	YES
	Claims	NO

## 2. Citations and explanations (Rule 70.7)

1. An axial piston machine and a cam plate as defined in the preambles of claims 1 and 15 respectively are known from DE-A-100 30 147 (cited in the description and in the search report). DE-A-100 30 147 does not disclose a locating element mounted on the cam plate and offset with respect to the guide axis. Independent claims 1 and 15 are therefore novel.

None of the cited documents contain anything to suggest moving the cam plate laterally in order to modify the volume setting, specifically moving a locating element mounted on the cam plate.

Independent claims 1 and 15 therefore involve an inventive step.

The subject matter of claims 1 and 15 can be made and used in industry for or together with an axial piston machine.

Dependent claims 2 to 14 and 16 to 19 define preferred embodiments of the axial piston machine and cam plate of claims 1 and 15, and therefore also meet the requirements of novelty, inventive step and industrial applicability.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/003250

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

2. The first part of independent claim 1 defines a first locating device with form-fitting locating elements. These are explicitly referred to in the plural ("locating elements (19a, 19b)"), yet the characterising part of the same claim specifies only one locating element (19b). This inconsistency between the two parts of claim 1 creates doubt regarding the subject matter for which protection is sought, and consequently claim 1 is not clear (PCT Article 6).